STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY **d/b/a Ameren Illinois**	)	
	)	Docket No. 13-0498
Approval of the Energy Efficiency and Demand-Response Plan Pursuant to 220 ILCS 5/8-103 and 220 ILCS 5/8-104 of the Public Utilities Act	)	

INITIAL BRIEF OF THE PEOPLE OF THE STATE OF ILLINOIS

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The People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois ("the People" or "AG"), pursuant to the schedule established by the Administrative Law Judges ("ALJs"), hereby file their Initial Brief in the above-captioned proceeding.

I. INTRODUCTION

Ameren Illinois Company ("AIC" or "the Company") is a combination utility, serving both electric and gas customers throughout central and southern Illinois. AIC is, therefore, required under Sections 8-103 and 8-104 of the Public Utilities Act ("the Act") to delivery energy efficiency programs to their residential, commercial and industrial electric and gas customers. 220 ILCS 5/8-103, 8-104. This proceeding involves the Illinois Commerce Commission's ("Commission") review of AIC's proposed plan for the delivery of energy

efficiency programs to AIC customers for electric program years 7 through 9 and natural gas program years 4 through 6.[1]

While some issues that arose during the Commission Staff's and Intervenor review of the AIC plan have been resolved, others remain contested and in need of Commission resolution in this proceeding. Among those are issues addressing the need for the Commission to ensure that the *maximum* amount of cost-effective energy savings are achieved – not simply a minimum amount that fails to challenge the utility to provide programs that create deep energy savings for all customer classes over a longer term. Contested issues remain, too, in the establishment of a Net-to-Gross ("NTG") evaluation framework that achieves the appropriate balance of (1) providing Ameren with the necessary certainty to allow it to create robust programs that achieve maximum energy savings over a longer term, and (2) ensuring that not all risk of financial penalty is removed, which has the deleterious of allowing a utility to put programs on autopilot at the expense of program modification where needed.

In this Brief, the following significant topics will be addressed, among other contested and resolved issues:

> **Programs, Goals and Budgets:** Ameren has proposed a portfolio of programs that would expend the available budget over the three year period, but would dramatically reduce goals from the statutory targets of 1.8%, 2% and 2% for electric program years 7-9 ("PY7-9") and 0.8%, 1.0%, and 1.2% for gas program years 4-6 ("PY4-6"). While the original goals articulated in the statute are

[1] Under Section 8-103(e) of the Act, electric utilities shall implement 75% of the energy efficiency measures approved by the Commission, with the remaining 25% of those energy efficiency measures approved by the Commission implemented by the Department of Commerce and Economic Opportunity ("DCEO"). A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from units of local government, municipal corporations, school districts, and community college districts. The Department shall coordinate the implementation of these measures. DCEO's proposed programs are being examined by the Commission in ICC Docket No. 13-0499.

unachievable given the budget limits, thereby requiring a downward modification of goals, some Ameren planned costs seem excessive. In addition, Ameren proposes to include residential programs in its Plan 3 that could be delivered under the Section 16-111.5B Illinois Power Authority ("IPA") procurement mechanism, thereby freeing up additional budget to capture greater overall savings. As discussed below, some shifts in spending and program allocations to better maximize total savings for Ameren ratepayers should be ordered by the Commission.

2. **Banking and CFL Carry-forward:** Ameren has not included any cumulative banked savings it expects to have by the end of Plan 2 in its Plan 3 goals. In addition, no CFL carry-forward savings AIC will have accrued by the end of Plan 2 that could apply to Plan 3 have been incorporated in savings goals. The ICC should find in this order that no banking of savings can be accrued across three-year plan periods. In the alternative, the Commission should require AIC to add these banked savings to any Plan 3 goals approved.

3. **Flexibility:** Ameren is proposing complete flexibility to modify its Plan 3 unilaterally throughout the Plan period. In addition, it appears Ameren would like this flexibility without any obligation to also adjust savings goals based on any shifts between programs and budgets. Because of the significant variation in costs per unit savings among the various programs, this unlimited flexibility would provide Ameren the ability to simply shift funds from more expensive programs to less expensive ones, thereby easily meeting goals that were established assuming more resources were devoted to the expensive programs. This offers Ameren an unreasonable ability to virtually guarantee it can meet its goals and undermines the purpose of establishing and approving a plan in the first place. As recommended by AG witness Mosenthal, the Commission should establish clear limits on this flexibility and a mechanism to adjust goals accordingly for any shifts beyond a 20% of portfolio limit. The Commission should also order AIC to present any shifts to the SAG for stakeholder discussion prior to adoption.

4. **NTG and TRM Adjustments:** Ameren has proposed a savings measurement construct that virtually eliminates all performance risk to Ameren. In short, Ameren proposes to deem values for a full three years, and in the event any values are modified, to directly adjust goals based on this modification. This would include not only NTG ratios, but also gross savings realization rates and any TRM measure-level savings assumptions. As discussed by AG witness ;Mosenthal, while deeming of some factors is appropriate, locking them in for the entire three-year Plan period is unreasonable and unnecessary. In addition, Ameren proposes a modification of the ICC-approved NTG framework, despite the fact that the SAG has made great progress and I believe is very close to a reasonable consensus on a new NTG framework that could be adopted by all Illinois program administrators. The Commission should approve the current version of a SAG-developed proposal (AG Exhibit 1.1), with some Staff-proposed modification that would resolve Ameren's concerns about certainty while

providing a formalized and consistent approach throughout Illinois for establishing energy savings that would have the consensus of all parties. The Commission should adopt this framework in each of the program administrators Plan 3 dockets. as discussed below.

5. **Non-Cost-Effective Measure Promotion:** Ameren has proposed to include a number of efficiency measures in its programs that do not pass the total resource cost ("TRC") test for cost-effectiveness. Ameren argues that so long as the overall portfolio is cost-effective individual measures should not be required to pass the TRC test. While the People support Ameren's basic portfolio level analysis principle, Ameren has inappropriately included some non-cost-effective measures that may not serve ratepayers best interests. In addition, given the significant budget constraints, the Commission should only approve non-cost-effective measures when there is a compelling reason. The People submit that AIC has not satisfied that benchmark.

The People urge the Commission to enter an Order consistent with the recommendations set forth in this Brief. All of the recommendations herein are informed by both Section 8-103 and 8-104 of the Public Utilities Act, the record evidence, past Commission orders, and the recognition that Ameren and other Illinois utilities are using atepayers' money to implement and oversee programs *for ratepayers.* The utilities must have some accountability to ensure that they perform this statutory duty *on behalf of ratepayers – not shareholders* -- in a prudent way, and in a manner that maximizes energy savings while providing cost-saving efficiency and other net benefits to ratepayers.

II. STATUTORY LANGUAGE

The General Assembly has declared that it "is the policy of the State that electric and natural utilities are required to use cost-effective energy efficiency and demand-response measures to both reduce delivery load and reduce both the direct and indirect costs of gas and electric utility service. 220 ILCS 5/8-103(a), 8-104(a). Every three years, electric and gas utilities must present to the Commission a proposed plan for providing to utility ratepayers

comprehensive and cost-effective energy efficiency programs. 220 ILCS 5/8-103(f), 8-104(f). Several established statutory principles must guide the Commission's evaluation of AIC's proposed PY 7-9 electric and PY 4-6 gas energy efficiency plans. First and foremost is the recognition that proposed programs must be cost-effective. As used in these sections, "cost-effective" means that the measures satisfy the total resource cost test, as defined in the Illinois Power Agency Act. 20 ILCS 3855/1-10[2]. When evaluating a utility's energy efficiency programs, the Commission's analysis of cost-effectiveness shall be applied at the portfolio level, as established by both the Public Utilities Act and reinforced by the Commission in multiple prior dockets. *See* 220 ILCS 5/8-103(f) (the utility shall "[d]emonstrate that its overall portfolio of energy efficiency and demand-response measures, not including (low-income)programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs"); ICC Docket 10-0564, Order of May 24, 2012 at 92; ICC Docket No. 07-0539, Order of February 6, 2008 at 21; ICC Docket No. 10-0568, Order of December 21, 2012 at 30; ICC Docket No. 11-0341, Order of October 2, 2013 at 49. For purposes of calculating a cost cap, as defined in sections 8-103(d) and 8-104(d), the total amount paid for electric and gas

[2] "Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases. 20 ILCS 3855/1-10.

service includes without limitation estimated amounts paid for supply, transmission, distribution, surcharges, and add-on-taxes. *Id.*

III. PROCEDURAL HISTORY

IV. ELECTRIC AND GAS SAVINGS GOALS AND SPENDING LIMITS

A. Proposed Modified Goals

1. Explanation of Proposed Modified Goals

a. Proposed Electric Goals

b. Proposed Gas Goals

2. Adequacy of Savings Goals

Under Section 8-103 of the Act, electric utilities are required to implement cost-effective energy efficiency measures to reduce the amount of energy utilized by its retail customers in accordance with annual incremental annual energy savings goals specified in the statute. That subsection provides that electric utilities shall implement energy efficiency programs that achieve the following annual energy savings levels for the program years 2014 -- 2016:

> (7) 1.8% of energy delivered in the year commencing June 1, 2014; and
>
> (8) 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

220 ILCS 5/8-103(b). Due to a recent amendment to the law, electric utilities may comply with this subsection (b) by meeting the annual incremental savings goal in the applicable year or by showing that the total cumulative annual savings within a 3-year planning period associated with measures implemented after May 31, 2014 was equal to the sum of each annual incremental savings requirement from May 31, 2014 through the end of the applicable year. In addition, electric utilities shall implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act, and for customers that elect hourly service from the utility pursuant to Section 16-

107 of this Act, provided those customers have not been declared competitive. This requirement commences June 1, 2008 and continues for 10 years.

Notwithstanding the requirements of subsections (b) and (c) of this Section, an electric utility shall reduce the amount of energy efficiency and demand-response measures implemented over a three-year planning period by an amount necessary to limit the estimated average annual increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007 or the incremental amount per kilowatthour paid for these measures in 2011. 220 ILCS 5/8-103(d). Because of this cost cap, Ameren is seeking approval of significantly reduced energy savings goals over the PY 7-9 time period. AIC Ex. 1.0 at 5.

Similarly, Section 8-104 establishes statutory gas annual energy savings goals that, like the electric requirements, can be achieved over the course of the three-year plan. For gas program years 4-6, AIC is required to achieve the following annual savings goals:

> (1) 0.2% by May 31, 2012;
> (2) an additional 0.4% by May 31, 2013, increasing total savings to .6%;
> (3) an additional 0.6% by May 31, 2014, increasing total savings to 1.2%;
> (4) an additional 0.8% by May 31, 2015, increasing total savings to 2.0%; and
> (5) an additional 1% by May 31, 2016, increasing total savings to 3.0%;

220 ILCS 8-104(c). Notwithstanding these savings requirements, a natural gas utility shall limit the amount of energy efficiency implemented in any three-year reporting period established by subsection (f) of Section 8-104 of this Act, by an amount necessary to limit the estimated

average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable three-year reporting period "if the utility demonstrates by substantial evidence that it is highly unlikely that the requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period." 220 ILCS 5/8-104(c).

Ameren has proposed a portfolio of programs that would expend the available budget over the three year period, but would dramatically reduce goals from the statutory targets of 1.8%, 2% and 2% for electric program years 7-9 ("PY7-9") and 0.8%, 1.0%, and 1.2% for gas program years 4-6 ("PY4-6"). Ameren claims the original goals articulated in the statute are unachievable given the budget limits, and all parties agree that the statutory goals must be modified downward because of the budget cap established in section 8-103 and 8-104. However, as noted by AG witness Mosenthal, Ameren's planned program costs, for some programs, seem excessive. AG Ex. 1.0 at 5.

Specifically, Ameren's initially proposed cost per first year kWh saved for PY 7-9 is significantly higher than what has been achieved in earlier years. AG Ex. 1.0 at 9-10. The table below compares the proposal with evaluated results from PY4, and year end results from PY5:

$/kWh	py 4	py 5	py 7	py 8	py 9
RES-Appliance Recycling	0.21	0.40	0.35	0.35	0.35
RES-Behavior Modification	0.03	0.02	0.03	0.03	0.03
RES-ENERGY STAR New Homes	0.79	0.49	0.83	0.83	0.83
RES-HPwES	1.42	0.67	0.79	0.79	0.79
RES-HVAC	0.38	0.35	0.56	0.56	0.56
RES-Standard CFLs	0.05	0.06	0.32	0.29	0.28
RES-Moderate Income	3.19	1.61	1.26	1.26	1.26
RES-Multifamily In-Unit	0.24	0.11	0.17	0.17	0.17
RES-School Kits	0.34	0.38	0.32	0.32	0.32
RESIDENTIAL PORTFOLIO TOTAL	**0.09**	**0.10**	**0.29**	**0.28**	**0.28**

BUS-Standard	0.11	0.10	0.17	0.17	0.16
BUS-Custom	0.10	0.11	0.14	0.14	0.14
BUS-RCx	0.10	0.12	0.11	0.11	0.11
BUSINESS PORTFOLIO TOTAL	**0.10**	**0.10**	**0.15**	**0.15**	**0.15**
PORTFOLIO TOTAL	**0.10**	**0.11**	**0.23**	**0.23**	**0.22**

AG Ex. 1.0 at 10. As seen, costs are higher across a wide swath of programs, with overall savings in PY 7-9 costing about *double* what they cost in PY4 and PY5. *Id.*

One significant driver of the increased electric portfolio program costs are tied to the AIC residential CFL program, which went from costing $0.05/kwh in PY4 to costing $0.32/kWh in PY7, an increase of more than a factor of six. Since this program represented 41% of total portfolio savings in PY4, this particular cost increase has a very significant impact on the total portfolio numbers. While new regulations from the federal Energy Independence and Security Act ("EISA") and falling NTG ratios are real and legitimate reasons for the increase in costs for the CFL program, they mathematically cannot account for the full increase in PY7. AG Ex. 1.0 at 10-11. The NTG ratios, which measure net savings after accounting for both free riders and spillover, go from 0.83 in PY4 to 0.44 in PY7.[3] This leads to an increase in program costs by a factor of two, as compared to the total factor of six increase evident. Regulations from EISA decrease savings per bulb by another 30-40%. Even at the high end of this range, the resulting cost per kWh should still be well under the numbers in Plan 3, according to Mr. Mosenthal.

[3] Opinion Dynamics. Impact and Process Evaluation of Ameren Illinois Company's Residential Lighting Program (PY 4). Report uses an NTGR of 0.83 (page 9). For PY 7-9, Ameren uses 0.44, as shown in data request response ELPC 1.29. *See* AG Ex. 1.0 at 11.

The table below shows the cost per kwh from PY4, and how it would be affected if the baselines from EISA and the lower NTG ratios had been in place. As can be seen, even after both adjustments, and assuming a 40% reduction in savings from EISA, the resulting costs are still only half of what Ameren is proposing in Plan 3. *Id.* The table also includes ComEd's $/kwh for their Plan 3 residential lighting program for comparison purposes,[4] which is consistent with Mr.Mosenthal's conservative estimate:

$/kwh PY4	$/kwh after NTG adjustment	$/kwh after EISA adjustment	AIC PY 7 $/kwh	ComEd PY7 $/kwh
0.05	0.094	0.16	0.32	0.14

AG Ex. 1.0 at 10. Mr. Mosenthal identified two main factors besides EISA baseline adjustments and NTG ratios that are driving up program costs in Plan 3: higher program costs per rebated bulb, and lower savings claimed than what is indicated in the Commission-approved Technical Reference Manual ("TRM")[5].

According to Mr. Mosenthal, there appear to be no legitimate reasons for these additional cost drivers. First, the costs for Plan 3 seem to be significantly higher than necessary. For example, AIC's response to ELPC data request 1.29 shows that Plan 3 numbers assume an incremental cost per standard CFL of $2.50, and an incentive of $1.60. *See* AG Cross Ex. 1.

[4] ICC Docket No. 13-0495, Commonwealth Edison Company's 2014-2016 Energy Efficiency and Demand Response Plan, Table 6.

[5] The TRM, developed by the Stakeholder Advisory Group and approved by the Commission in Docket No. 12-0528. One of the purposes of the Illinois TRM is to provide a transparent and consistent basis for calculating energy (kWh or therms) and capacity savings generated by the energy efficiency programs offered in the State of Illinois. To this end, the Vermont Energy Investment Corporation was retained by the Illinois Energy Association, on behalf of Ameren, ComEd, Peoples Gas/North Shore Gas, Nicor Gas and the DCEO (collectively, the Programs Administrators) and with input by the SAG participants, to prepare the Illinois TRM for statewide use. *See* Staff Initiating Report, Docket No. 12-0528.

The Illinois TRM, by contrast, lists an incremental cost of $1.50 for the retail markdown program, lower than the incentive planned for PY 7-9 and significantly lower than the incremental cost Ameren appears to be assuming. Further, AIC's assumed budget has increased total incentive and administrative program costs per rebated bulb have gone from $1.62/bulb in PY4 to $2.52/bulb in PY7. This makes no sense given that, during this time, prices of CFLs have come down, promotion of the more expensive specialty CFLs has been transferred to the Illinois Power Agency energy efficiency procurement programs under Section 16-111.5B of the Act, and Ameren has gained experience administering the program. Taken in totality, these factors suggest that the cost per bulb, if anything, should be lower in PY 7 than it was in PY 4. AG Ex. 1.0 at 12.

Second, the AIC goals for PY 7 assume 17.7 kWh saved per bulb. AG Ex. 1.0 at 12. This appears to be lower than the savings indicated by the Illinois TRM. *Id.* While the exact savings from the TRM depends on the specific wattage of the CFL rebated, the savings produced by the TRM are higher than 17.7 kWh for all cases, except CFLs replacing a 29-watt post-EISA-modification halogen incandescent bulb, which made up only 9% of all CFLs rebated in 2009. *Id.* The table below shows, for each type of incandescent, the post EISA baseline, the wattage for a typical CFL replacement, the post EISA wattage, and the percent of total PY 4 activity represented by the class of bulb. As indicated in the TRM, assuming a first year in-service rate of 69.5%, 938 annual hours of operation, and a waste heat factor of 1.06, the weighted average savings comes out to 22.2 kWh, which is 25% higher than the assumption actually used for the program year:

Pre-EISA base	Post-EISA base	CFL equivalent	% of bulbs, PY4	kWh saved, post EISA
100	72	25.00	4%	32
75	53	20.00	82%	23
60	43	14.00	5%	20.0
40	29	10.00	9%	13.1
			Weighted Average	**22.2**

AG Ex. 1.0 at 13.

Given the totality of these factors, the goals for the program should be updated to reflect higher energy savings. For the updated savings, it was assumed that the total program budget remains fixed, that the cost per CFL rebated will not change from PY4, and that savings per bulb average 22.2 kWh. *Id.* As seen, with these adjustments the resulting program costs of $0.17/kWh are very close to Mr. Mosenthal's high-level estimate of the impacts of EISA that resulted in $0.16/kWh. Ameren's costs would also be much more in line with ComEd's proposed program, which will achieve savings at $0.14/kWh, under these updated cost figures. *Id.* Updating the AIC savings as indicated above would change the total portfolio, cumulative three-year goal from 599,553 MWh to 659,640 MWh, an increase of about 10% over Ameren's proposed goal, as shown in the table below:

Standard CFL Program	PY 7	PY 8	PY 9
Costs	$6,351,096	$6,351,096	$6,351,096
Original Savings (MWh)	19,677	21,769	22,401
Updated Savings (MWh)	38,195	42,256	43,483
Original $/kwh	0.32	0.29	0.28
Updated $/kwh	0.17	0.15	0.15

AG Ex. 1.0 at 13[6]. It should be noted that the $/kWh declines slightly from PY 7 to PY 9 because PY 8 and PY 9 include carry-forward savings from PY 7 and PY 8, while PY 7 does not include CFL carry-forward savings from PY 5 and PY 6.[7] *Id.* Excluding the carry-forward savings, there would be a slight increase in $/kWh, since it is assumed the NTG ratio will decline from PY 7 to PY 9. *Id.*

In response to both Mr. Mosenthal's and NRDC witness James Grevatt's stated concerns about the assumptions used by AIC to estimate electric program cost and savings, Ameren Witness Cottrell in rebuttal suggested that Ameren is willing to reduce its incentive costs somewhat for CFLs, bringing the cost per bulb down from $2.52 to $2.31. AIC Ex. 7.0 at 4. However, this is still significantly higher than the $1.58 per bulb cost for standard CFLs in PY5. *Id.* The bulk of this increase is related to significantly higher contractor costs, according to the AIC data. *Id.* Ameren indicates this is primarily driven by substantial increases in contractor costs in PY6 to support a large increase in bulb volume from 2.5 million to 4.0 million. *Id.* However, the PY7 plan is to only promote 2.5 million bulbs, consistent with PY5, and then decreases in further in future years. In addition, because of the phase in of federal lighting standards and general maturation of the CFL market during Plan 3 it should be easier for Ameren to reach these levels with lower contractor effort than in PY5. The AG sees no reason why Ameren should not be able to deliver this program in PY7-9 for costs per bulb similar to PY5.

[6] Note that the $/kWh declines slightly from PY 7 to PY 9 because PY 8 and PY 9 include carry-forward savings from PY 7 and PY 8, while PY 7 does not include carry-forward savings from PY 5 and PY 6.[6] Excluding the carry-forward savings, there would be a slight increase in $/kWh, since it is assumed the NTG ratio will decline from PY 7 to PY 9. AG Ex. 1.0 at 13-14.

[7] Ameren's omission of CFL carry-forward savings from PY5 and PY6 is discussed below.

Further, AIC witness Cottrell disputes AG Witness Mosenthal's calculation that Ameren underestimated savings from CFLs and was not consistent with the TRM.[8] Specifically, Cottrell claims Mosenthal failed to account for two aspects in his savings calculation: 1) an 11% leakage factor based evaluation; and 2) shifting mix of measures as a result of the phase in of the Federal Standards. AIC Ex. 7.0 at 3-4. Cottrell recalculates the average per bulb savings to be 19.4 kWh, as opposed to the 22.2 kWh calculated by Mosenthal. But this criticism misses the mark.

First, Ameren itself failed to include the 11% "leakage" -- i.e. which refers to efficiency purchases that are installed outside of a utility's territory -- adjustment in its own original calculation of CFL savings, and does not state what evaluation this is based on. In addition, the TRM does not include any adjustment for leakage, so at this point it is not clear that leakage would ever be included in any Plan 3 deemed savings calculations. *See* ICC Docket No. 12-0528, Attachment to Initiating Staff Report (TRM) at p. 430.

The other issue raised by Mr. Cottrell is that the mix of bulb wattages dramatically shifted between PY4 and PY5, moving from a majority of 75 watt equivalent bulbs to a majority of 60 watt equivalent bulbs. AIC Ex. 7.0 at 4. Mr. Cottrell states this is because of the federal Energy Independence and Security Act ("EISA") lighting standards phasing in. *Id.* However, this cause is not supported by the facts. PY5 ended in May 2013, after only the 100 watt requirement began in June 2012, and prior to the phase-in of either the 75 or 60 watt standards beginning in June 2013 and June 2014, respectively. While it is not clear what caused this significant shift in bulb sizes, it clearly was not the EISA standards. The bottom line there is no evidence in the record that the PY5 mix of sales is any more reflective of likely sales in PY7-9 than the mix that occurred in PY4.

[8] AIC Ex. 7.0 at 3-4.

Correcting these standard CFL cost and savings assumptions is just one necessary step in increasing AICs energy savings goals to a more fact-based and achievable level. The cost and savings figures presented by Mr. Mosenthal represent objective, fact-based anaylsis that lowers assumed program costs and increases energy savings, thereby freeing up program dollars for other residential offerings. As discussed later in this Brief, those additional dollars should be applied to the creation of an LED lighting program, a concept Ameren witness Cottrell endorsed, but in a less than robust manner, given their re-stated cost and savings figures.

Another way to increase portfolio savings goals involves the transfer of standard CFLs program offerings to the Section 16-111.5B IPA procurement portfolio, which, as discussed below, will also create the added benefit of freeing up limited program dollars to both deepen and enhance program offerings.

VIII. Ameren Illinois' Energy Efficiency and Demand Response Plan

A. Description of Ameren Illinois' Plan

1. Background

2. Portfolio Summary and Objectives

3. Dual Fuel Integration

4. Planning Process

5. Savings Goals and Costs

6. Rider EDR and Rider GER

7. Portfolio Programs

(a) Residential Programs

(b) Business Programs

(c) The DCEO Portfolio

B. Filing Requirements

C. Staff and Intervenor Proposed Changes To The Plan

1. Proposed Changes to Ameren Illinois' Proposed Programs

(a) Removing Programs from the Plan to the IPA Procurement Plan

Although Ameren has proposed to transfer the promotion of specialty CFLs to the IPA programs, it has retained standard CFLs, which have historically made up the vast majority of

program costs and savings. In order to both cost-effectively increase savings goals and enhance program offerings in both the residential and commercial settings, Mr. Mosenthal recommended using Section 16-111.5B IPA efficiency procurement funds to promote standard CFLs in addition to the specialty CFLs it is already promoting. Since the IPA is not subject to the 2% budget cap, this would free up significant capital to enhance and deepen the other programs in Ameren's portfolio without sacrificing the CFL program or efficiency service to the residential sector. AG Ex. 1.0 at 14.

In fact, transferring standard CFLs to the IPA may actually allow an expansion of the CFL program. The proposed participation in PY 7-9 of 2.525 million bulbs per year represents a significant reduction from PY 5 participation of 4.1 million bulbs. *Id.* Even with the standard CFL cost adjustments described above, the proposed budget would only be able to support 3.9 million bulbs per year, a decrease from current levels of service. Recent studies have indicated that even in states that have aggressively promoted CFLs current socket saturation rates are around 30% or lower. *Id.* Therefore, current market saturation in Illinois is not likely a constraint on available savings from the CFL program. Without the 2% budget cap, transferring the program to the IPA portfolio would allow the CFL program to maintain or even enhance current levels of service, and allow Ameren to use the resulting budget savings to expand its other programs.

As noted by Mr. Mosenthal, there are no administrative concerns related to moving standard CFLs to the IPA portfolio. In fact, transfer of standard CFLs to the IPA portfolio would increase efficiencies. Under Plan 3, even though the IPA funds the specialty CFLs, they would still be delivered by Ameren and its contractor, as part of Ameren's overall residential lighting program. If standard CFLs were also funded through the IPA, the program could still be

administered by Ameren, and all databases, processes, marketing materials (including Ameren branding), outreach to vendors, and other program aspects could remain identical. If anything, program administration would be easier, compared to trying to split different aspects of the program between different portfolios. In fact, it is possible that inefficiencies from running two separate programs in terms of outreach and coordination with vendors, data tracking, and evaluation are contributing to Ameren's assumed much higher costs per bulb in Plan 3. AG Ex. 1.0 at 15.

Moving the AIC residential Behavior program to the IPA efficiency portfolio also makes administrative sense. The Behavior program is a standalone program with straightforward administrative procedures and can easily be ramped up without large increases in administrative funding. *Id.* While this is a combined electric and gas program, there is no reason the IPA procurement mechanism cannot fund the electric portion, with the program still administered by Ameren and also providing gas benefits with co-funding from the gas ratepayers. Indeed, IPA programs are still funded through the Ameren energy efficiency rider, so this is simply a regulatory change that would not impact program delivery or ratepayer opportunities to participate. If funded through the IPA's Section 16-111.5B procurement process, the program could potentially be expanded while at the same time freeing up another $600,000 per year to contribute to other Ameren programs, with that amount representing the electric portion of the Behavior program budget. *Id.*

It should be noted, too, that shifting the Behavior and CFL programs to the Section 16-111.5B IPA procurement programs creates no customer equity concerns in terms of ensuring a diverse portfolio that serves all customer classes. First and foremost, the IPA efficiency programs are still funded by the same ratepayers using the same mechanism, so this change does

not significantly alter the overall split of investment by customer class. Transferring the funding to the IPA would actually enhance the programs available to residential customers, both by allowing an increase in funding for the CFL and Behavior programs and by allowing the resulting Section 8-103 budget savings to expand the other more enhanced programs in Ameren's portfolio. *Id.* at 15-16.

These programs appropriately fit within the IPA procurement mechanism because they are established programs that have been proven successful and cost-effective. They can also be ramped up or down annually if necessary. In addition, they have undergone evaluations in Illinois and many similar programs throughout the United States have been extensively evaluated. They are also programs that would still be administered in the same fashion by Ameren and its contractors, so there is no reason similar independent evaluation procedures cannot be used in the future as have been used for the Section 8-103 programs. As a result, the existing lack of clear EM&V procedures of IPA programs is less of a concern for these programs than for some of the new and untried programs bid into the IPA's proposed portfolio by independent vendors. *Id.* at 22.

Transferring these programs to the IPA portfolio would also impact the People's hesitancy to permit AIC wide latitude in ensuring program flexibility. The CFL program and especially the Behavior program have demonstrated a propensity in the past to achieve savings and are very easily ramped up. However, a well-designed efficiency portfolio requires effective programs covering a variety of different end uses and technologies. Indeed, this desire to engage a variety of end uses and technologies should be a main driver in the establishment of effective energy efficiency portfolios.

In fact, Mr. Mosenthal's main concern with allowing flexibility to transfer funds between programs is that if any program is falling short of its goal, Ameren would be able to simply transfer funds to the Behavior program, and make up the gap with behavioral savings which cost $0.03 per kWh and which are assumed to only last one year and are actually fairly costly on a lifecycle basis. AG Ex. 1.0 at 17. With this ability, it would be very unlikely Ameren could not easily achieve goals, no matter how poorly it performs on its other programs. On the other hand, if the IPA procurement mechanism is used for these two programs, this problem would be significantly reduced, and the case for funding flexibility would make much more sense. *Id.*

Commercial and Industrial ("C&I") customers would also benefit, since at least some of the savings from transferring the CFL and Behavior programs to the IPA could go to increased program budgets for these customer groups. Therefore, this proposal would significantly enhance the levels of cost-effective energy efficiency available to *all customer classes*. Ameren has indicated in SAG discussions that one reason for keeping the standard CFL program within Section 8-103 is to have some programs that all residential customers can participate in.

The People support and recommend Commission adoption of a balanced approach to re-assigning the program dollars associated with the Behavior and standard CFL residential programs wherein some funds where shifted to Commercial & Industrial ("C&I") programs and a portion is shifted to ramp up other residential programs, subject to any gas budget constraints for combined programs. Later in this Brief, the People discuss a proposal to discontinue some gas measures that are no longer cost-effective, which would also free up some gas budgets. This would allow for an even expansion of some of the residential combined electric and gas programs by shifting some of the IPA electric funds to those programs, matched on the gas side by the now-available gas funds associated with the discontinued gas measures.

In addition to this shift in funds, Mr. Mosenthal recommended that some of the re-allocated funds from assigning the standard CFL and Behavior programs to the IPA portfolio be split among the current three C&I programs. *Id.* at 17. C&I savings, Mr. Mosenthal testified, are significantly cheaper than the other residential program savings, and would consequently lead to the largest amount of additional savings captured. Second, typically, there are far more cost-effective efficiency opportunities in the C&I sector as compared to the residential sector. *Id.* The potential to ramp up these programs is far higher and will dramatically increase the overall net benefits of the combined Section 8-103/IPA portfolio. Third, Ameren has indicated that currently, it is somewhat constrained in expanding the electric budget portion of some of the other joint electric/gas residential programs because of the relatively lower gas budgets in these combined programs. The above-discussed transfer of these residential programs would free up more funds to increase those budgets. *Id.*

Finally, while equity among customer sectors in efficiency program offerings is both required under the Act and important from a fairness standpoint, the residential ratepayers still will benefit significantly from the newly increased IPA residential programs. Thus, shifting some of these Section 8-103 funds to C&I programs will effectively maintain total residential contributions when considering both the Section 8-103 and IPA spending in total. Indeed, if all the additional funds were preserved for residential offerings, the result would be a heavily skewing of resources toward residential in total (i.e., for both IPA and Section 8-103 portfolios). *Id.* at 17-18.

No matter how the savings are used, the result would be a significant net increase of cost-effective efficiency in the state of Illinois, and all residential customers would still be able to access rebated CFLs. Even with this shift of residential programs to the IPA procurement

process, it is important to note that there would still be more residential programs than C&I programs remaining in the Section 8-103 and 8-104 portfolios. *Id.* at 18.

The People acknowledge that the 2014 deadline for submission of these residential programs to the IPA efficiency procurement portfolio has passed, so the standard CFL and Behavior programs may have to remain within the Section 8-103 portfolio for PY 7. However, as shown in the table below, which details the Section 8-103 cost breakdown if the CFL and behavioral programs were transferred to the IPA portfolio and the budgets shifted to C&I,, the total Section 8-103 goals slightly increase in PY 8 and PY 9 even without including the savings from the CFL and Behavior programs. *Id.* at 18. This occurs because C&I savings cost less to achieve than CFL savings. Of course, Ameren ratepayers would still achieve all of the savings planned and possibly more from the Behavior and CFL programs, even though they were shifted to IPA:

	Program Cost			**MWh**		
	PY7	PY8	PY9	PY7	PY8	PY9
RES-Appliance Recycling	$ 1,583,161	$ 1,461,234	$1,313,788	4,476	4,131	3,715
RES-Behavior Modification	$ 656,250	-	-	21,688	-	-
RES-ENERGY STAR New Homes	$655,381	$655,381	$655,381	791	791	791
RES-HPwES	$ 4,064,512	$4,064,512	$4,064,512	5,114	5,114	5,114
RES-HVAC	$3,186,470	$3,186,470	$3,186,470	5,672	5,672	5,672
RES-Standard CFLs	$6,351,096	-	-	19,677	0	0
RES-Moderate Income	$966,933	$966,933	$966,933	770	770	770
RES-Multifamily In-Unit	$1,061,85	$1,061,85	$1,061,85	6,232	6,232	6,232

	1	1	1			
RES-School Kits	$115,375	$115,375	$115,375	366	366	366
RESIDENTIAL PORTFOLIO TOTAL	**$18,641,029**	**$11,511,756**	**$11,364,310**	**64,786**	**23,076**	**22,660**
BUS-Standard	$10,504,921	$15,173,148	$15,624,734	60,073	88,016	95,886
BUS-Custom	$7,137,404	$9,573,571	$9,499,176	51,307	68,815	68,275
BUS-RCx	$1,882,077	$2,524,475	$2,504,857	17,075	22,902	22,722
BUSINESS PORTFOLIO TOTAL	**$19,524,402**	**$27,271,193**	**$27,628,768**	**128,455**	**179,732**	**186,883**
AIC - Portfolio Admin costs	$1,921,679	$1,952,771	$1,963,352	-	-	-
AIC - EM&V costs2	$1,340,706	$1,362,399	$1,369,780	-	-	-
AIC – Education	$960,839	$976,386	$981,676	-	-	-
AIC – Marketing	$960,839	$976,386	$981,676	-	-	-
Emerging Technologies3	$1,340,706	$1,362,399	$1,369,780	-	-	-
PORTFOLIO TOTAL	**$44,690,200**	**$45,413,290**	**$45,659,342**	**193,241**	**202,808**	**209,543**

AG Ex. 1.0 at 19. As shown above, shifting of these programs to the IPA portfolio increases savings goals without increasing costs.

Assuming Commission adoption of all four of Mr. Mosental's recommendations related to CFL cost and savings assumptions and shifing of standard CFL and Behavior programs to the IPA portfolio, even more reductions in dollar costs and increases in savings can be achieved. The

table below shows programs delivered through the IPA and Section 8-103 mechanisms at the same funding levels as proposed by AIC, with costs and savings funded by the IPA highlighted in red:

	Program Cost			MWh		
	PY7	PY8	PY9	PY7	PY8	PY9
RES-Appliance Recycling	$1,583,161	$1,461,234	$1,313,788	4,476	4,131	3,715
RES-Behavior Modification	$656,250	$656,250	$656,250	21,688	21,688	21,688
RES-ENERGY STAR New Homes	$655,381	$655,381	$655,381	791	791	791
RES-HPwES	$4,064,512	$4,064,512	$4,064,512	5,114	5,114	5,114
RES-HVAC	$3,186,470	$3,186,470	$3,186,470	5,672	5,672	5,672
RES-Standard CFLs	$6,351,096	$6,351,096	$6,351,096	38,195	42,256	43,483
RES-Moderate Income	$966,933	$966,933	$966,933	770	770	770
RES-Multifamily In-Unit	$1,061,851	$1,061,851	$1,061,851	6,232	6,232	6,232
RES-School Kits	$115,375	$115,375	$115,375	366	366	366
RESIDENTIAL PORTFOLIO TOTAL	**$18,641,029**	**$18,519,102**	**$18,371,656**	**83,304**	**87,020**	**87,831**
BUS-Standard	$10,504,921	15,173,148	15,624,734	60,073	88,016	95,886
BUS-Custom	$7,137,404	9,573,571	9,499,177	51,307	68,815	68,275
BUS-RCx	$1,882,077	2,524,475	2,504,857	17,075	22,902	22,722
BUSINESS PORTFOLIO TOTAL	**$19,524,402**	**$27,271,193**	**$27,628,768**	**128,455**	**179,732**	**186,883**
AIC - Portfolio Admin costs	$1,921,679	$1,952,771	$1,963,352			
AIC - EM&V costs2	$1,340,706	$1,362,399	$1,369,780			
AIC – Education	$960,839	$976,386	$981,676			

AIC – Marketing	$960,839	$976,386	$981,676			
Emerging Technologies3	$1,340,706	$1,362,399	$1,369,780			
PORTFOLIO TOTAL	**$44,690,200**	**$52,420,636**	**$52,666,688**	**211,759**	**266,752**	**274,714**

AG Ex. 1.0 at 20.

As seen, under these recommendations, the cumulative three-year savings achieved in Ameren's service territory (including programs funded by IPA and Section 8-103 of the Act would significantly increase – **from 600 GWh to 753 GWh, or approximately 25% greater** – thus providing significant additional benefits for Illinois's ratepayers, and coming much closer to the goal of achieving all available cost-effective energy efficiency. Moreover, for residential ratepayers, the MWh savings achieved would **increase by about 30% while the residential dollars spent in total (both Section 8-103 and IPA portions) would remain the same.** *Id.* at 20-21.

Again, while acknowledging the fact that the utilities have already submitted their recommended cost-effective programs to the IPA for inclusion in the 2014 IPA energy efficiency procurement, the Commission must embrace its duty as the regulator to coordinate these two efficiency processes to the extent possible under law. As noted by Mr. Mosenthal, in discussions at the SAG and in the Staff-sponsored IPA workshops, utilities have expressed the view that they could not bid expansions of their Section 8-103 programs to the IPA because of the mismatch of planning and approval cycles, which have them submitting IPA procurement proposed programs in mid-July and proposed three year plans under Sections 8-103 and 8-104 around September 1 every three years. *Id.* at 21. The feeling by the utilities is that they cannot bid any Section 8-103

program expansions into the IPA portfolio for 2014 because these programs would not even have been approved by the ICC yet.

But the ratepayers and utilities are now entering into the 7th year of efficiency programs in Illinois. As the People noted in Comments and briefs filed in Docket No. 13-0546 (IPA Procurement for 2014), it is reasonable for the utilities to operate with a "presumption of approval" when developing their three-year plans – particularly when the programs being proposed for the IPA's consideration are ones that the Commission has previously approved as clearly cost-effective and the utility has experience in previously providing. Under this approach, the utilities could bid expansions into the IPA portfolio in July, conditional upon Section 8-103 program approval by the Commission. Because of the extensive work involved in developing three-year plans, utilities already have a clear sense of the programs they are planning at this point. While ideally the People recommend synchronizing the IPA and Section 8-103 planning cycles and extending the IPA's energy efficiency planning process to three years (as ComEd has proposed in the IPA procurement docket), this simple change, at a minimum, would resolve this timing issue unless and until the General Assembly addresses this filing timing difference.

At a minimum, the Commission should enter an order that requires Ameren to include the standard CFL and Behavior programs in their package of programs presented to the IPA in years 8 and 9 (2015 and 2016) of this three-year plan.

(b) Cost-Ineffective Measures

Ameren has proposed that only the overall portfolio should be required to meet the standard of passing the TRC test for cost-effectiveness. Specifically, it is requesting permission to pursue efficiency measures that it estimates will not pass the TRC test. As noted earlier in this Brief, the Commission has made clear in numerous dockets that cost-effectiveness shall be

evaluated at the overall portfolio level, rather than by individual programs. While the OAG strongly concurs with this principle, some limitations on that position must be retained.

AG witness Mosenthal identified several reasons why overlooking the fact that an individual program might fall short of the TRC 1.0 threshold is appropriate. These reasons include, but are not limited to:

- pursuing market transformation for measures that are expected to benefit from early promotion, which will drive down prices and set the stage for more long term cost-effective savings;
- preserving continuity in programs and relationships with vendors for measures that have been promoted and now may be marginally non-cost-effective, but likely to become cost-effective again in the near future, or where these vendor relationships are important to capture other cost-effective opportunities;
- to support comprehensive treatment of customer facilities at the time of an efficiency retrofit when a particular measure is part of an overall bundle of measures that is cost-effective and logical to install together. A few examples include lighting fixtures in a few rooms with low hours of use when doing a comprehensive lighting retrofit; rebating all sizes and types of an efficiency measure even when a minority of these sizes or types may fail screening; installing better ventilation systems when sealing a home even if there was no ventilation before and actual usage will increase because it is important for health and safety reasons; etc.

AG Ex. 1.0 at 47. All of these reasons justify a continuation of the important policy of evaluating cost-effectiveness at the portfolio level. But as discussed below, certain limitations are appropriate.

(i) High Efficiency Furnaces and Boilers Should Be Removed From the AIC Gas Portfolio.

Some exceptions exist in the application of portfolio-level cost-effectiveness evaluations if evidence exists that inclusion of the measure in a portfolio is both non-cost-effective and unlikely to serve some higher goal of establishing longer term, robust efficiency goals. In this docket, Ameren's request to continue providing rebates for high efficiency furnaces and boilers despite their no longer passing the TRC test. Mr. Mosenthal opposed this inclusion in the overall portfolio for the various reasons listed at pages 48-49 of his Direct Testimony. *See* AG Ex. 1.0 at 48-49.

In his Rebuttal filing, Ameren witness Goerss stated that the Company is willing to eliminate the cost-ineffective residential furnace and boiler measures from Plan 3. AIC Ex. 6.0 at 17. However, Mr. Goerss stated that AIC is concerned that removal of this key heating measure from the portfolio may have a significant negative impact to customers with house-hold incomes within the 200% to 400% of poverty range. Therefore, the Company's agreement to eliminate cost-ineffective residential furnaces and boilers is dependent on agreement to redistribute these funds to the "Moderate Income Program." The People support AIC's recommendation and concern for this sometimes overlooked residential group, and urge the Commission to accept that proposal, thereby removing AIC's high efficiency furnace and boilers program from it overall gas portfolio.

One other point on this topic should be noted by the Commission. Ameren indicates that its ability to pursue greater comprehensive savings in combined gas-electric programs is limited by the relatively low gas budgets, even though there are more cost-effective electric savings to be captured in these programs (e.g., the home performance and multifamily programs). AG Ex. 1.0 at 49. Shifting budgets currently allocated to promoting these non-cost-effective measures to

supplement gas budgets in combined programs has the effect of also allowing greater electric efficiency to be captured. For these reasons, too, the proposal to eliminate the high-efficiency furnaces and boilers from the gas portfolio should be endorsed by the Commission.

(ii) LED lighting

Ironically, Ameren initially declined to promote residential LED lighting because they claim it does not pass the TRC test.[9] But AG witness Mosenthal notes that in the case of LEDs, the technology is relatively new, and prices are currently rapidly declining while performance is rapidly improving. AG Ex. 1.0 at 50. He noted that these products also offer significant non-energy benefits that may not be fully captured in Ameren's analysis. Mr. Mosenthal noted that Ameren could make a much more logical argument to promote them as a way to spur market transformation, introduce the market to the new product, and set the stage for further price declines and large cost-effective savings in the future.

In response to these observations, AIC witness Cottrell proposes to re-assign program dollars saved from the recalculation of CFL costs and savings to the creation of an LED lighting program. AIC Ex. 7.0 at 7. The People support his plan modification. However, the program dollar figures assigned to this new measure should be based on the additional costs and savings computed in Mr. Mosenthal's recalculation of the CFL standard lighting program, discussed earlier in this Brief.

2. Proposed New Programs

(a) Pilot C&I Program

[9] *See* AG Ex. 1.0 at 50, citing AIC Response to ELPC data request 2.02.

IIEC witness Robert Stephens testified that AIC's energy efficiency and demand response programs fail to engage large industrial and commercial customers, and that some improvements are needed in this next three year plan to address the efficiency needs of these customers. IIEC Ex. 1.0 at 3.

AG witness Mosenthal concurred that large customers often have to work with multi-year budgeting and construction cycles and have unique internal barriers to obtaining efficiency project funding approval. AG Ex. 2.0 at 13. In addition, large construction projects can last several years. In some jurisdictions, he noted, he has seen evidence whereby utilities feel they cannot commit resources to a large multi-year project because they do not have Commission approval for spending on programs that spans the full period of potential construction. *Id.* To date, it appears that this has been a problem in Illinois.

However, as noted throughout this Brief, a recent modification to Section 8-103 of the Act allows Ameren to consider its electric goals as cumulative three year goals, as opposed to single year goals. 220 ILCS 5/8-103(b). Approval of a three-year plan by the Commission should therefore provide Ameren with sufficient certainty to obligate funds over the full three-year period and work more effectively with these customers.

Even with three-year plans, however, it is true that there is an endpoint that can be perceived to be problematic depending on whether the project has been completed at the end of the three-year cycle. Because budget caps are articulated in the Act, and all parties agree that these limits are the constraining factor in achieving the Act's goals, Ameren therefore knows with a great deal of certainty what its future efficiency program budgets will be. The Commission should direct Ameren to work with these large customers and be willing to commit reasonable DSM resources to future projects absent formally approved programs and plans.

(b) Data Center Program

A data center is a building that contains primarily electronic equipment used for data processing, data storage and communications. ELPC Ex. 1.0 at 15. ELPC witness Geoff Crandall testified that data centers can offer substantial and cost-effective efficiency opportunities that should be pursued by Ameren. ELPC Ex. 1.0 at 10-15. However, AG witness Mosenthal disagreed that Ameren needs a dedicated "data center program" in which to encourage, promote and capture this potential savings.

As noted by Mr. Mosenthal, Ameren offers a Custom program for business customers. This program allows for any cost-effective efficiency measures to be adopted and provided financial incentives. AG Ex. 2.0 at 11. It also provides customized outreach and technical assistance to any C&I customer to assist in identifying appropriate opportunities. Mr. Mosenthal testified that he does not believe Ameren needs to offer a program specific to data centers to effectively capture this efficiency potential. In fact, because so many data centers are a portion of larger facilities that likely have many other efficiency opportunities, he stated a more flexible approach through the Custom program is desirable to ensure that all cost-effective opportunities in the customer's facility are identified and promoted. *Id.*

Ultimately, while these opportunities can be effectively captured through the Custom program, Mr. Mosenthal encouraged the Commission to direct Ameren to target this important market in the Custom program and ensure it develops specific strategies to identify, market to, and assist data centers with efficiency upgrades. That recommendation should be adopted in the Commission's final order in this docket.

(c) Smart Devices Program

(d) Conservation Voltage Reduction Program

ELPC Witness Volkman and CUB Witness Devens both propose that Ameren develop and deliver as part of its efficiency portfolio a voltage optimization program. ELPC Exhibit 2.0 at 2-15; CUB Ex. 1.0 at 19-28. While voltage optimization ("VO") technology can be a cost-effective approach to better managing the electrical grid, and can achieve some reductions in energy demand, it is inappropriate to pursue this measure with the very limited demand-side management funding resources in Illinois. AG Ex. 2.0 at 12.

Section 8-103(c) of the Act established DSM programs to work with customers to assist them in investing in improving the efficiency of their facilities. 220 ILCS 5/8-103(c). Separately, the utilities have various obligations to build and maintain efficient and effective distribution systems, for which they can recover their costs under various mechanisms, and often also earn a rate of return on their investment. The efficiency and demand response programs enabled by Section 8-103 of the Act are designed to engage customers in these measures. The adoption of voltage optimization, however, is a supply-side solution to efficiency that is completely under the control of the utilities, is invisible to customers, and does not require any customer action to be successful, unlike efficiency and demand response programs created under Section 8-103 of the Act. Just as investments in advanced metering infrastructure have not been funded through the limited efficiency funds, neither should VO. To do so would both compete with many other cost-effective efficiency opportunities and programs that Ameren can offer its customers, and would diverge from the traditional utility responsibility of managing its distribution system to minimize ratepayer costs subject to appropriate standards of reliability and safety.

The ICC should direct Ameren to invest all appropriate funds to ensure that all cost-effective VO technology is installed and used on its system as soon as possible. However,

Ameren should recover these costs consistent with how it recovers other distribution system capital and maintenance costs, and not use the limited DSM funds established under Section 8-103 of the Act for this purpose.

3. Additional Financing To Customers For Energy Efficiency Measures
(c) Workshops
(d) On-bill Financing ("OBF")

ELPC witness Geoff Crandall suggests that Ameren should be pursuing on-bill-financing ("OBF") services in its plan. ELPC Ex. 1.0 at 5. AG witness Mosenthal agreed with this point. In Rebuttal Testimony, he noted that Ameren used ratepayer funds to set up an administrative mechanism to support OBF, as directed by 220 ILCS 5/16-111.7. AG Ex. 2.0 at 10. While the Company met the OBF Act's minimum requirement to fund this mechanism with at least $5 million in loan funds, they have now discontinued offering OBF. This is inappropriate and should be reversed by the Commission.

OBF can allow Ameren to reduce cash rebates by supplementing them with financing that still provides customers immediate positive cash flow. So long as the loan payments are smaller than the estimated bill savings, then customers will directly benefit by adopting the efficiency measures and have little financial disincentive to do so. *Id.*

Because Ameren is asking the Commission to approve goals that are significantly adjusted downward from the intended statutory goals articulated in Sections 8-103 and 8-104 of the Act as a result of budget limits, Ameren should have an obligation to attempt to maximize the savings that it can reasonably capture within these budget limits, subject to other policy objectives. OBF provides a significant tool for Ameren to expand the goals it pursues within the

budget limits. Further, given that the ratepayers have invested in the development of this important resource mechanism, they should continue to accrue the benefits available from it.

In that regard, the Commission should direct Ameren to submit a revised plan with substantially higher goals, consistent with Mr. Mosenthal's Direct Testimony as well as that of NRDC Witness Grevatt, CUB Witness Devens, and ELPC Witness Crandall. In particular, at a minimum, Ameren should be directed to: shift the Behavior and CFL programs to the IPA procurement mechanism; adjust estimates of program costs and savings as appropriate and consistent with CUB Witness Devens showing that Ameren's current proposal inappropriately estimates costs much higher than it has historically spent per unit of savings; and to include OBF as a mechanism to reduce program costs.

VI. Policy Issues:

A. Net to Gross ("NTG") Ratio Values

The NTG ratio is used to adjust the total estimated "gross" savings from all measures tracked through the program to estimate the true "net" effect that the program has produced. AG Ex. 1.0 at 35. This can be different for a number of reasons, with the two primary components being accounting for "free ridership" and "spillover." Free ridership refers to the portion of customers participating in the program that would have installed some or all of the efficiency measures even without the programs existence. Therefore, while these savings are counted in the utility's gross savings tracking system, they do not provide true additional net savings to society since the customer would have captured some or all of the savings anyway. Spillover refers to influences of the program that result in some customers or trade allies actually pursuing additional efficiency, but not formally participating in the program. In this case, the utility gross

tracking system does not count these savings, but to the extent customers and trade allies were influenced by the program and it caused them to do additional efficiency measures on their own, this savings is in fact a net effect of the program. *Id.*

1. Spillover and Free Ridership Factors for NTG Values

Ameren initially proposed that "the calculation of the NTG ratio should only include free ridership and spillover (for both participant and non-participant) only if both are included. If one is excluded, then they both should be excluded." AIC Ex. 1.0 at 16. AG witness Mosenthal took issue with that proposal, noting that he encouraged the Commission to confirm that spillover is a legitimate aspect of estimating NTG ratios. AG Ex. 1.0 at 45. He proposed, consistent with my recommendations about a new NTG framework, that the SAG, in consultation with EM&V consultants, can agree to deem a spillover assumption regardless of whether there is any formal EM&V study on it, and that such values could be based on research outside of Illinois and professional judgment, and could be selected as zero or any other number. *Id.*

On Rebuttal, AIC witness Goers testified that noted that the only witness to raise concerns about the recognition of spillover (Staff witness Brightwell) ultimately agrees to include both spillover and free ridership when calculating the NTG values. AIC Ex. 6.0 at 25; Staff Ex. 2.0 at 3-5. Mr. Goerss further stated that he agreed with Mr. Mosenthal's recommendation that the Commission recognize spillover as a legitimate factor and with his comment that spillover can be an assumed value deemed by the SAG and the EM&V contractor, regardless of whether there is any formal study on it. AG Ex. 1.0 at 45; AIC Ex. 6.0 at 25-26. Based on this testimony, it would appear that all parties agree that both components can and should be used in the derivation of NTG ratios.

The Commission should endorse the inclusion of both spillover and free ridership evaluations in the evaluation of efficiency programs in its final Order in this docket.

2. Modified NTG Framework Proposals

In this docket, Ameren proposes a process by which it would take the NTG values (as determined by the independent evaluators) and the TRM update values (as determined by the Technical Advisory Committee ("TAC"), a technical subcommittee of the SAG) that are known by March 1st and apply those prospectively for the following Plan Year. AIC Ex. 6.0 at 6. Ameren argues that it needs certainty around NTG estimations to properly plan and manage its portfolio. Further, they argue that values for a given year should be established by March 1 for the following program year beginning June 1: "The TRM Update Process should result in known values by March 1 of a given year, or three months before a given Plan Year (which begins on June 1). If NTG values are set by that time as well, that would go far in mitigating the risks associated with changing values and in achieving the benefits to ratepayers that comes with regulatory certainty."[10]

While the People concur that a degree of certainty is necessary to ensure the development of robust efficiency programs, that goal is also exactly what the current NTG framework, adopted in Ameren's last three-year plan order, Docket No. 10-0568, as well as a proposed new NTG framework attempts to establish. Ameren has expressed frustration in delays that have occurred regarding SAG following through with its commitments and resolving these issues by March 1 in past years. AIC Ex. 6.0 at 6-7. However, these are not reasons to completely undo the significant progress SAG has made in reforming this process.

[10] AIC 1.0 at 15.

In his Direct Testimony, AG witness Mosenthal proposed that the latest draft proposed NTG framework upon which the SAG has been working to develop and reach consensus be adopted by the Commission. AG Ex. 1.0 at 37. That document reflected the consensus of all non-utility parties to the SAG, and resolved utility program administrators' major concerns regarding how NTG is treated. It also achieves certainty by allowing for deemed NTG values to be established in a timely fashion each year. ELPC witness Geoff Crandall likewise endorsed a nearly identical modified NTG framework as an appropriate evaluation tool to be adopted in this proceeding. ELPC Ex. 1.4.

In her Direct Testimony, Staff witness Jennifer Hinman offered a similar proposal with some variations, discussed below. Staff Ex. 1.1. In an effort to limit issues in the docket, AG witness Mosenthal endorsed in his Rebuttal Testimony, with some caveats, the adoption of the Staff- recommended revised NTG framework. As noted by Mr. Mosenthal, Ms. Hinman suggests that the ICC adopt a new NTG framework based on one developed by the non-utility parties, including Staff and the Attorney General's Office (AG). The AG/ ELPC proposed framework was collaboratively developed among Staff, AG, ELPC and NRDC. However, because the SAG has not had a chance to formally consider or adopt it, it was not completely final and a few differences exist between the version sponsored by the AG and ELPC, and the one proposed by Staff (Staff Exhibit 1.1). These differences are fairly minor, and the People would support approval of the Staff version as an alternate to AG Exhibit 1.1 with one exception related to voting parties, discussed further below.

In all, there are three primary differences between the Staff and AG-endorsed modified NTG frameworks. One is slight variations in the proposed schedule. Staff has proposed two schedule tracks—one for the residential sector and a separate but parallel schedule for the

commercial and industrial sectors. Staff Ex. 1.1. This is because the evaluators have informed Staff that typically residential evaluations are completed about one month prior to the C&I evaluations. Staff's schedule allows slightly more time for the residential sector by acknowledging the timing of evaluations. AG witness Mosenthal supports this minor change. What is of critical importance about the schedule is that the process be completed in time for program administrators to file the NTG values with the Commission by March 1 of each year. AG Ex. 2.0 at 4.

The second difference between the two framework versions involves what would occur when consensus is not reached on a particular measure's NTG value. The AG-sponsored NTG framework (AG Exhibit 1.1) proposed that if consensus on an existing program NTG is not reached, then the past two *prior and already available* evaluation NTG estimates would be averaged, and used prospectively for the following program year. *Id.* Staff has proposed a slightly different approach that provides the utilities with slightly less certainty.

Specifically, Staff's proposal is that the last two years' evaluation NTG estimates be averaged. The distinction is that, at the time of filing with the ICC, the evaluations for the immediately prior program year are generally not yet available. As a result, Staff is proposing averaging one, known NTG estimate (PYt-1) with one, as-yet-unknown-NTG estimate (PYt). This provides less certainty to the utilities than the AG proposal, but allows use of more current evaluations that in general should better reflect the likely current and future performance of the program. *Id.* The People support that approach.

Staff's proposal, which provides the utilities with much certainty, but not 100% certainty, should be adopted by the Commission, with the caveat discussed below, rather than AIC's

shareholder-risk averse alternative. While the OAG support providing the utilities with more certainty than they have had in previous years, Staff's approach is preferable for two reasons:

- First, it will result in, all else equal, likely better estimates of actual future NTG ratios because the most recent evaluations will be incorporated and thus should best reflect the current status of the program and market.

- Second, it provides a reasonable but significant incentive for all parties to reach consensus on a best estimate of future NTG ratios, and failing to reach consensus would result in less certainty and potentially more risk to all parties.

AG Ex. 2.0 at 5.

While AIC complains that the process of attempting to reach consensus on NTG values in the SAG has been time-consuming and, at times, unsuccessful, there are important reasons to retain this collaborative process and adopt the Staff-proposed modified framework. As noted by AG witness Mosenthal, under the AG-proposed framework, the last two already available evaluation NTG estimates are averaged. These would reflect program years that are one and two years old at the point of adoption. Because these NTG estimates are already known, any inability to reach consensus on a NTG estimate means that all parties will necessarily know with certainty what the ultimate default NTG estimate will be if there is no consensus. As a result, this creates a greater likelihood that a party might have a diminished desire to reach consensus whenever they prefer the known value from prior evaluations. In essence, as compared with Staff's alternative, a party can unilaterally "game" the process, and refuse to agree to any reasonable NTG value they prefer less to the known NTG default value that would be adopted without consensus. *Id.* at 5.

While all parties are attempting to provide the utilities with somewhat more certainty in terms of assumed savings values for various program measures, where reasonable, the Staff approach is a reasonable compromise that still significantly limits the risk to program

administrators. This is because one of the two values that would be averaged is already known. Therefore, even if a future evaluation estimates a surprising NTG value, the impact on the program administrators is diluted because it is averaged with the one already known and certain. That fact points to Staff's proposal as a reasonable compromise that significantly diminishes program administrators' risk and likely results in a somewhat more current and better estimate of the actual NTG ratio that would result in the next program year. It also serves to avoid perverse incentives that discourage parties to work together in good faith to achieve consensus. AG Ex. 2.0 at 6.

One particular aspect of the Staff NTG modified framework should *not* be adopted by the Commission: its lack of a definition of "voting parties." AG Exhibit 1.1 and ELPC Exhibit 1.4 both define "voting parties" in the SAG. Specifically, footnote 3 of that exhibit defines the voting parties as "the program administrators, Staff and other parties that have traditionally intervened in the EEPS dockets and consistently participated in the SAG. These are AG, NRDC, ELPC and CUB. However, voting members cannot also be subcontractors in Section 8-103/104 efficiency programs."[11] In Rebuttal testimony, Mr. Mosenthal explained that by identifying these regular stakeholder participants, he, in no way, intended to limit participation to new stakeholders. AG Ex. 2.0 at 7. In contrast, Staff's version of the NTG framework is silent on defining any "voting" parties. In fact, Staff witness Hinman objected to any attempt to limit or identify voting parties in the NTG evaluation process.

But Staff's approach is too broad. SAG meetings have traditionally been open to anyone to attend – a practice that allows for honest sharing of ideas and ensures greater transparency of SAG's deliberations. However, Staff's insistence that no limitations of any kind be placed on

[11] AG Exhibit 1.1, ELPC Exhibit 1.4, Footnote 3, p. 2.

the voting process could allow literally anyone to attend a SAG meeting and refuse to agree to a NTG consensus position regardless of whether that party has any particular knowledge or expertise on the issue, or whether they have ever intervened or otherwise been involved in energy policy in Illinois. AG Ex. 2.0 at 7.

Mr. Mosenthal testified that in his conversations with Staff, it is his understanding that their intent is that any entity that is participating in *any* SAG meeting can object to consensus. This understanding was confirmed on cross-examination of Staff witness Hinman, wherein she confirmed that by not including a definition of voting parties in her framework, subcontractors of the utility, evaluators and even the SAG facilitator would have a vote in the consensus building process. Tr. at 54-59. Ms. Hinman acknowledged, too, that by not defining voting parties, each utility would be permitted multiple votes on consensus issues. *Id.* She further confirmed that subcontractors of utilities may have vested financial interests in ensuring the highest NTG value be agreed upon, depending on the type of contract that exists between the subcontractor and the utility. *Id.* The bottom line is that without a clear definition of voting parties that (1) limits participants to regular SAG attendees and (2) limits each party to a single vote, consumer and environmental stakeholders will be automatically outnumbered in any attempt reach consensus on these important evaluation parameters. To date, SAG parties have been limited to one vote on issues involving TRM and NTG updates. That process should continue going forward.

The facts is, many attendees at the SAG are subcontractors to another party. For example, consultants helping the program administrators design and plan programs, evaluators, and implementation contractors who sometimes are paid based on performance could conceivably vote under Staff's approach and have a clear conflict of interest in regard to the ultimate NTG ratio. It would be inappropriate to allow these parties a formal vote because they generally are

attending the SAG as contractors to some other party that *already has a vote*. In addition, it is inappropriate for the evaluation consultants to have a vote. As the current NTG framework describes, evaluators are tasked with working together as independent parties to propose NTG values based on their professional expertise. Indeed, independence is a critical factor in ensuring high quality evaluations. These individuals should not then be in a position of actually advocating for any particular outcome to preserve this independence. In addition, any party that has subcontracted with a utility to provide programs should not be permitted to vote on evaluation parameters. Finally, the People believe the SAG facilitator should retain her independence to effectively facilitate and manage the SAG, rather than taking a formal position on substantive issues. AG Ex. 2.0 at 7-8.

Again, the listing of voting parties in AG Ex. 1.1 was simply based on the People's experience as to which entities have been regular, active members of the SAG and that, to date, do not have any obvious conflicts. The Commission's Order in this proceeding should make clear that if any other party or parties that fits that criteria were to join and become more active and desire to participate in voting on NTG consensus issues, they are welcome to do so, as long as they do not have a clear conflict such as being a contractor for a utility program and do not enable an entity – whether it be a utility or a ratepayer advocate – to have more than a single vote.

In sum, the Commission should adopt Staff's proposed modified NTG framework, with the inclusion of a definition of voting parties that (1) limits participants to regular SAG attendees; (2) limits each party to a single vote; and (3) ensures that voting members (outside of the individual utility) have no financial interest in the outcome. It is important that any NTG procedures be consistent and applied equally to all program administrators.

B. Energy Efficiency Policy Manual

The AG supports continued operation of the SAG for the duties listed in AG Ex. 1.0 at 52. The SAG process to date has fostered dialog, collaboration, education on key issues relating to efficiency, and opportunities to comment upon and inquire about new and modified programs. The AG applauds Ameren's participation in the SAG, which has included open and transparent information sharing in response to stakeholder inquiries, active participation, and willingness to thoughtfully and productively engage with all stakeholders in a public forum.

That being said, the People request that the Commission at the Commission order Ameren IL to continue participating in the SAG for the duties listed above and in this testimony, consistent with prior orders that established the SAG, and more recent orders that outline a clear role for SAG in the evaluation of utility programs through the TRM process. *See, e.g.* ICC Docket No. 12-0528, 13-0077, *gen'ly.* In addition, the AG requests that the Commission direct Ameren to work with the SAG on the following tasks:

- Improving the evaluation, measurement and verification (EM&V) process so that reports are produced in a timely fashion to inform TRM and NTG updates;
- Providing SAG input to draft EM&V plans so that SAG participants can recommend information and data that is gathered and produced through the EM&V process;
- Providing written quarterly reports to the SAG no later than forty-five (45) days after the close of the quarter that contain program and portfolio-level accomplishments (kWh, kW, therms) relative to goals, program and portfolio-level expenditures relative to budget forecasts, any fund shifts greater than 20% of program budgets, expenditures on administrative costs, EM&V costs and marketing and outreach costs; and
- An Illinois Energy Efficiency Policy Manual, designed to streamline and encourage consistency on various program-related policies for review and approval by the Commission.

AG Ex. 1.0 at 52.

Unfortunately, Staff witness Hinman objected to the notion of the creation of a policy manual. Staff Ex. 3.0 at 25. AIC witness Goerss expressed similar hesitancy to endorse the project, but "commits to discussing with other SAG members whether there would be a need for such a policy manual in the future." AIC Ex. 6.0 at 26. Ms. Hinman argued that the proposal was vague, could be the source of contention and would impose additional time commitments on the SAG. Staff Ex. 3.0 at 25-26. The People find this sentiment surprising, given discussions that occurred and agendas proposed in recent SAG meetings that referenced the establishment of such a manual through upcoming SAG meetings.

Ironically, cross-examination of Ms. Hinman revealed that she believes there is great benefit and usefulness in creating consistent approaches in evaluation processes, identification of common cost definitions and application of cost-effectiveness evaluation principles among the various utility and DCEO efficiency programs. Tr. at 47-51. She also acknowledged that currently, for example, different approaches by evaluators have created inconsistent evaluation results among utility and DCEO programs. Tr. at 49.

The goal of the establishment of a Policy Manual would be to ensure that evaluators and program administrators play for the various utility service territories and customer bases play by the same rules in terms of monitoring savings achieved and evaluating programs. Currently, the utility and DCEO Program Administrators and their individually selected evaluators at times play by different rules, as acknowledged by Ms. Hinman. For these reasons, the People urge the Commission to include within its Order in this docket specific direction for the SAG to complete an Illinois Energy Efficiency Policy Manual to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated.

C. Aligning the Timing of the Application of the Net to Gross Framework and Illinois TRM

See Net-to-Gross discussion above.

D. Portfolio Flexibility

Ameren has proposed unlimited flexibility to modify its Plan 3 as it chooses, so long as it is consistent with any clear statutory or regulatory rules (e.g., that budgets do not exceed the budget cap). Specifically, Ameren witness Goerss states in Direct Testimony, "Ameren Illinois seeks the flexibility to adjust all portfolio elements (program budgets, goals, incentives, etc., in addition to stopping and starting programs) as needed to achieve portfolio success." AIC Ex. 1.0 at 10. As noted by AG witness Mosenthal, it appears that Ameren is asking for unilateral permission to make these changes as it sees fit without any stakeholder or Commission approval. AG Ex. 1.0 at 29.

While the People generally support the concept of providing flexibility to Program Administrators in the delivery of energy efficiency measures, AIC's request exceeds what could be called a reasonable amount of latitude. As noted by Mr. Mosenthal, in most instances his is very supportive of allowing program administrators wide latitude to make plan and program design modifications as they see fit, based on what they are learning in the field, how markets are responding, and to effectively and in a timely manner make mid-course corrections to improve program effectiveness. *Id.* However, he characterized Ameren's request as "far too broad", and noted that the proposal effectively allows Ameren to easily "game the system." *Id.*

Mr. Mosenthal noted that in the past, the legislature had established goals and budgets, and if Ameren found better and more effective ways to meet the goals while still achieving broad

policy objectives, this flexibility was appropriate. However, now that the budget constraints are drastically limiting the goals selected, allowing unfettered flexibility simply all but guarantees Ameren can easily meet virtually any goal that might be set simply by shifting from more expensive to less expensive programs. *Id.*

For example, Ameren is proposing goals that are drastically modified downward from those originally intended in the legislation, due to the Section 8-103 budget cap limits. In addition, Ameren is proposing a relatively balanced portfolio of programs that does not simply strive to hit the highest goals possible, but rather to spend additional funds for longer lived and more expensive resources, to meet other policy objectives – an approach that is widely supported among the witnesses in this docket and in the SAG. *Id.* at 29-30. However, Ameren is asking the Commission to approve significantly downward modified goals based on this specific plan and allocations of resources among different programs with widely varying costs per unit of savings.

The effect of this approach, as shown in the table at page 31 of Mr. Mosenthal's Direct testimony, makes clear that the cost per unit of savings varies dramatically from one program to the next. As can be seen, the cost/kWh ranges from a low of $0.03/kWh for the Behavior program to a high of $1.26/kWh for the Residential Moderate Income program. *Id.* at 31. In other words, the most costly program is 42 times more expensive per unit savings than the least expensive. *Id.* at 30. Thought of another way, the behavioral program accounts for only 5.5% of the budget yet captures 32.2% of the MWh savings, and 50.1% of the gas MMBTU savings. *Id.* Clearly, if Ameren had proposed more of the cheapest programs and less of the more expensive programs it would have proposed much higher overall goals within the budget cap.

All of this points to one glaring problem with Ameren's unfettered flexibility proposal: if hypothetically, the Commission approves Ameren's proposed goals based on this planned program mix, and then Ameren chose to shift significant funds from relatively expensive programs to relatively inexpensive programs, it would make Ameren's job of meeting goals far easier. Effectively, it would be pursuing a different, cheaper plan than the one approved by the ICC. With unlimited ability to shift funds, Ameren is virtually guaranteed it can easily meet any approved goal simply by shifting more effort to the cheapest programs. Because the budget cap constraints prevent Ameren from pursuing all cost-effective efficiency resources in each market, they have significantly more flexibility to ramp up the least expensive programs. *Id.* at 31.

As an alternative to Ameren's extreme proposal, AG witness Mosenthal suggested the ICC establish some limits on flexibility. While these limits would not prevent Ameren from exceeding them should they so choose, it would trigger goal adjustments similar to what Ameren is proposing for NTG adjustments, should it choose to exceed them. Specifically, he proposed that any shifts of budgets that result in a variance from planned annual program budgets of 20% or more would trigger goal adjustments. *Id.* at 32. In other words, Ameren could underspend 10% in one program and overspend 15% in another program with no adjustments. However, if it were to shift resources beyond the 20% benchmark, then goals would be modified accordingly. *Id.* For example, if program A had a cost of 40 cents/kWh and program B had a cost of only 5 cents/kWh, and if Ameren shifted funds beyond the limit from program A to program B, a commensurate increase in goals would be triggered based on the 8-times higher amount of kWh expected to come from the shifted dollars than what was originally planned. Mr. Mosenthal noted that this can also work in Ameren's favor if it is having success with an expensive program and want to shift funds into it from a cheaper program. *Id.*

It is also important to note that Mr. Mosenthal's proposed 20% budget shift per program limit is consistent with direction given to the SAG in Ameren's first Plan order that the stakeholder process should review any program budget shifts where the change is more than 20%. *Id.* Finally, Mr. Mosenthal recommended that the ICC order Ameren to first bring any proposed modifications to the SAG for discussion and ideally to build consensus around the change. This should happen whether or not the 20% limit is exceeded, but is particularly important for big changes. The SAG has proven to be an effective sounding board to allow various stakeholders to provide input and ultimately help build support for the programs and provide the program administrators with an added level of security in knowing if any stakeholders have major concerns prior to any after-the-fact litigation. *Id.* at 34-35.

In Rebuttal Testimony, AIC witness Goerss opined that any requirement to consult or seek approval from the SAG or the Commission would unfairly restrict Ameren Illinois from timely responding to market changes. AIC Ex. 6.0 at 19. This argument misconstrues Mr. Mosenthal's recommendation, however, and impinges on the goals of seeking maximum achievement of energy savings goals through a collaborative process.

In fact, Mr. Mosenthal made clear that he was not suggesting that the SAG should have the authority to overrule a program administrator decision. AG Ex. 1.0 at 34-35. Rather, the SAG involvement is designed to ensure that all stakeholders are aware of proposed changes and that Ameren has the opportunity to consider differing points of view prior to any final decision. In the event that a modification does require a modified goal, it can also reduce contentious litigation by ensuring all parties reach consensus on the exact amount to modify goals.

For all of these reasons, the AG proposal to limit flexibility such that any shifts of budgets that result in a variance from planned annual program budgets of 20% or more would trigger goal adjustments should be adopted by the Commission. Further, the Commission should enter an Order that makes clear that utilities should continue to bring all proposed program shift proposals to the SAG for input and comment.

E. Application of Total Resource Cost Test
F. Aligning Savings Goals According to Changes in Values

In its quest to gain even more certainty in achieving its Commission-approved savings goals, Ameren has proposed that savings goals be adjusted based on any changes in NTG values, realization rates and TRM values in future years. These proposed policies should be rejected for several reasons.

First, as explained by AG witness Mosenthal, NTG values can be highly influenced by program administrator actions, such as program mid-course corrections, and this would remove any incentive for utilities to strive for higher NTG values and to make appropriate program changes when NTG values are becoming increasing low. AG Ex. 1.0 at 40. For example, the utility would be indifferent if their assumed CFL NTG value of 0.44 dropped to 0.05 because its goals would simply be adjusted to accommodate this unfortunate outcome. *Id.*

Instead, the utility should have a clear incentive to forecast likely NTG results and make program changes as necessary to ensure it is not expending resources inappropriately on things that are largely transformed in the market already. In this scenario, for example, Mr. Mosenthal noted that the utility should raise eligibility requirements, perhaps shift the CFL promotion to LEDs or only specialty bulbs, consider targeted approaches to reach non-free riders, or perhaps discontinue the program altogether. *Id.* Ameren is asking for this sort of flexibility, and with

the diverse portfolio of programs and measures it is proposing, it has ample opportunity to make annual modifications to their Plan to accommodate newly determined (but applied only prospectively) NTG values and still meet the Commission-approved goals. Further, while Ameren should anticipate likely shifts in NTG values over time and act on these forecasts, adoption of the proposed NTG framework also ensures that utilities will have 90 days prior to each program year start to make changes once the values are certain. *Id.*

Ameren also proposes that goals be adjusted based on changes to realization rates. This proposal should likewise be rejected. First, realization rates reflect the ratio of gross savings that a utility has tracked and estimated to the actual estimated gross savings from impact evaluations. This variance in gross savings can come from a number of things, including utility errors in its database, failure to accurately apply the agreed upon TRM values, or other factors that are generally in control of the utilities and/or their contractors. As a result, realization rates going forward should be presumed for planning purposes to be 1.0. In other words, from a planning perspective one should assume the savings being tracked in the database are correct based on the established TRM rules and actual program activity. AG Ex. 1.0 at 41.

To the extent an evaluator makes an adjustment to gross savings because they find a variance in the savings, this is simply part of the evaluators job of determining if the savings were counted properly. Because variances between tracked savings and final evaluation numbers can reflect adjustments for factors under the utility's control (e.g., errors, inappropriate application of the TRM, etc.), the utility should be held accountable for these realization rate adjustments. *Id.*

Ameren also proposes that goals be adjusted based on any annual changes to the TRM. This proposal is yet another inappropriate policy. As explained by AG witness Mosenthal, the

TRM is a living document, and it is imperative that it go through annual updates to modify any values for which there is now better information, or to add new measures. The TRM and TRM policy dockets[12] were established, and procedures agreed to, to ensure a timely update process whereby program administrators will know any TRM changes by March 1 of each year, 90 days prior to the beginning of the next program year and use of the next TRM version. This allows utilities the opportunity to modify plans, shift promotions of measures, incentive levels, etc. as they see fit to manage these known and certain changes. AG Ex. 1.0 at 41-42.

It is important that the utilities be held to an overall goal and are incented to make appropriate annual adjustments to ensure prudent programs. Because the portfolio is highly diverse and includes numerous programs and hundreds of measures, there is plenty of opportunity for utilities to make these appropriate adjustments and accommodate TRM changes annually. Alternatively, if the utility simply gets to adjust all goals whenever the TRM changes it has no incentive to make appropriate midcourse corrections. For example, if the TRM determined that a measure was saving very little and no longer cost-effective, the utility could still simply pursue that measure and get full credit for goals based on the number of measures rebated, even when this is no longer in the ratepayers interest. *Id.* at 42.

Beyond the policy reasons opposition to adjustments to goals based on annual TRM changes, there exist practical problems with the proposal. Such a policy would be extremely administratively burdensome and impractical. The TRM literally contains hundreds of measures and thousands of individual assumptions. The process of maintaining and revising it already consumes significant resources. If every change in a TRM had to be translated into explicit goal adjustments this would result in constantly moving targets, require extensive administrative

[12] Docket Nos. 12-0568 and 13-0077, respectively.

effort, and significantly reduce transparency of goals. In addition, it would be very difficult for SAG parties to follow and understand how goal adjustments were made and whether they were appropriate, thereby adding additional labor to the mission of the SAG. *Id.* at 42-43.

In addition, even if one were willing to absorb these extensive administrative burdens, it is still unclear exactly how this would be done. For example, annual updates of the TRM can include adding new measures being promoted that were not in the latest version. While this is clearly a TRM change, it is unclear how this would translate into goal adjustments when no original TRM value existed. It is important that program administrators constantly consider and adopt new efficiency measures as they are appropriate, and a rule that any TRM modifications would drive goal adjustments would create a strong disincentive to improving the TRM over time and for utilities to pursue new opportunities that can benefit ratepayers. *Id.* at 42-43.

The bottom line with all of these proposed goal adjustment policies is that Ameren would like for the Commission to eliminate virtually all risk of energy savings performance removed, and establish a system that virtually guarantees it won't fail to achieve the statutory savings goals (as modified by the statutory cost cap), even if it chooses to pursue inappropriate measures and resources. This is not good public policy and is contrary to the General Assembly's intent in establishing the requirement that efficiency programs be cost-effective, and that utilities be held accountable when savings goals are not achieved. 220 ILCS 5/8-103(b), (f); 8-104(b), (i).

The Act explicitly established performance targets and penalties to utilities for failure to meet these energy savings performance targets. *Id.* Clearly the legislature intended for the utilities to absorb some performance risk or they would not have included these penalty provisions. The utilities are using the ratepayers' money to implement programs *for ratepayers.* That's an important point that should not be lost in this discussion. The utilities must have some

accountability to ensure that they perform this statutory duty *on behalf of ratepayers – not shareholders* -- in a prudent way, and in a way that maximizes energy savings while providing net benefits to the ratepayers.

Accordingly, Ameren's proposals to align savings goals according to changes in NTG values, realization rates and TRM values should be rejected.

G. Banking of Savings

In the first electric 3-year plans, the Commission allowed the "banking" of excess savings beyond that required to meet goals to be applied to future year savings claims. Although not specifically authorized in Section 8-103 or 8-104 of the Act, the Commission did so in response to utility claims that without banking, achievement of annual statutory energy savings goals would be difficult if not improbable. See ICC Docket No. 07-0540, Order of February 6, 2008 at 40-41. However, in doing so, the Commission expressed concerns that if banking were to grow too large it would be inconsistent with legislative intent, and therefore limited allowable banking:

> Limiting the amount of allowable "banked energy savings" to a percentage of the banked year's energy savings is reasonable. It is also reasonable to limit the amount that can be "banked" to one which would only allow utilities to "bank" a de minimis carry over, as anything further would violate the statute. Therefore, ComEd's and DCEO's request for Commission approval of "banked" energy savings is granted, but, they may "bank" no more than 10 percent of the energy savings required by statute in the year, in which, it is "banked."

ICC Docket No. 07-0540, Order of February 6, 2008 at 40-41. In Docket No. 10-0520, the Commission added a secondary criterion to banking that prohibited any banking if the *combined* savings of ComEd and DCEO did not also exceed the combined savings goal, even if ComEd *individually* exceeded its portion of the goal.

AIC's most recent banking balance that would exist following completion of savings verification for PY5 has yet to be determined. However, in response to NRDC data request 2.01, Ameren provided some information on past achievements and goals, and the latest ICC-approved banking estimates. AG Ex. 1.0 at 24. As of the end of PY2, Ameren had banked 16,890 MWh (Final Order, Docket No. 10-0519). In addition, Ameren has requested approval for total cumulative banked savings as of the end of PY3 of 35,066 MWh in Docket 11-0592.[13] While there is no Commission order in this docket to date, no party argued this should be reduced. In fact, Staff has proposed increasing it to allow Ameren to also bank 10% of the DCEO portion of the goal. Given that the ICC has already tentatively approved this approach of including the DCEO portion for purposes of banking in its proposed order for ComEd Docket 11-0593, a position the AG opposed, it is possible to assume this bump up may be adopted for Ameren as well. This would increase Ameren's PY3 banking by 4,544 MWh, resulting in a cumulative balance at the end of PY3 of 39,610 MWh. Further, Ameren indicates an estimate of PY4 achievements of savings of 352,204 MWh based on final EM&V reports, and also provides an unverified estimate of 326,393 MWh at the end of PY5. Based on these figures, Mr. Mosenthal estimated an approximate total banked savings at the end of PY5 of 101,939 MWh. *Id.* at 24. Ameren declined to make a forecast of likely banked savings at the end of PY6. Even without accruing any additional banked savings in PY6, it appears Ameren is likely to have in the range of approximately 100,000 MWh of banked savings that, under current rules, it could apply to savings toward Plan 3 goals. *Id.*

[13] AIC Ex. 1.0 at 10.

What is important to note when examining the banked savings figures is that this forecasted banked amount at the beginning of Plan 3 is approximately **50% of the annual goals in Plan 3.**[14] In other words, if these goals are inclusive of any applications of banked savings, Ameren could effectively completely shut down its programs for six months and still achieve goals simply by drawing on this banked accumulated savings.

In addition, Ameren's compact fluorescent light ("CFL") program promotes the sale of Iscrew-in CFLs as a replacement for incandescent bulbs. Past evaluations have indicated from customer surveys that within the first year on average only about 69.5% of these CFLs get installed, with the remainder stored as future replacements when lights burn out. As a result, Illinois utilities have claimed only a portion of the ultimate CFL savings in the year that the bulbs were sold. Based on the TRM, it is assumed that ultimately 98% of CFLs eventually get installed, with the remainder claimed in the following two years. In effect, this has resulted in an additional "banking" of savings, over and above the 10% banking limit the ICC imposed in Order 07-0540. While Mr. Mosenthal noted that AIC did not reveal the likely CFL carry-forward savings that Ameren will have to apply to PY7-9, it likely could be substantial and of a similar magnitude to the banked savings. *Id.* at 25.

In Rebuttal Testimony, Ameren made clear that it would not be requesting in this docket any carryover of accumulated banked savings from prior plans. AIC Ex. 6.0 at 13. The People support and applaud that sentiment. There are several reasons why banking of savings should be prohibited across three-year plan periods. First, due to a recent amendment to Section 8-103(b) of the Act, electric utilities may comply with this subsection (b) by meeting the annual

[14] Ameren's Plan 3 net goals (not including DCEO portion) are 193,240, 200,081, and 206,232 MWh for 2014-2016, respectively. Table 5, p. 6 of Ameren Plan. AG Ex. 1.0 at 25.

incremental savings goal in the applicable year or by showing that the total cumulative annual savings within a 3-year planning period associated with measures implemented after May 31, 2014 was equal to the sum of each annual incremental savings requirement from May 31, 2014 through the end of the applicable year. This ability to achieve annual savings goals across a three-year period likewise exists for natural gas utilities under Section 8-103(b). 220 ILCS 5/8-104(b).

Second, as noted by Mr. Mosenthal, there has been significant dispute around how to count banked savings, and also conflicting recent Orders and Proposed Orders. Similarly, the counting of CFL carry-forward savings has also been contentious, and there is still ambiguity of how to calculate it. Perhaps most importantly, the Commission indicated when it first established its banking policy that it should be limited to a *de minimis* amount. Clearly, the constant accumulation of banked savings to the point where they exceed 50% of a year's goals can no longer be considered de minimis. It is possible that when including CFL carry-forward the total accrued "banked" savings is closer to 100% of a single years goals. AG Ex. 1.0 at 27.

Finally, the importance of banking savings is significantly diminished due to the cost cap inherent in Sections 8-103(b) and 8-104(b). Because the Section 8-103 goals continue to increase while budgets remain capped, Plan 3 and any future plans (barring a legislative modification) will require modified goals. Under these modified goals, any available banked savings must be added to them to arrive at a reasonable achievable target within the budget limits. Therefore, Mr. Mosenthal notes, banking becomes a zero-sum game. AG Ex. 1.0 at 27. In other words, there is no real difference whether you grant Ameren X MWh of banked savings for the next year and then increase its goal by X MWh, or simply discontinue counting banked savings. If goals are no longer set by legislation but simply set as the most the available budgets

can support, then simply adding in extra banked savings provides no real incentive, because the utilities would simply have to meet a higher goal if it achieves more banked savings. *Id.*

In sum, the Commission should enter an Order that makes clear that AIC and indeed, no utility or DCEO, will be permitted to bank savings between three-year plan filings. Any permitted *de minimus* banking should only occur *within* a three-year plan period. This will allow electric utilities to overachieve in one year and still apply those additional savings to a year they might fall short, so long as it is within the plan period. This modification would provide greater flexibility for the electric utilities, smooth any unusual economic situations, reduce arbitrary concerns about exactly when a project is completed, and still ensure that the total three-year Plan goals are pursued. *Id.* at 28.

G. CFL Carry-forward Savings

See Banking section above.

H. Contracting with Independent Evaluators
I. Evaluation Cycle
J. Recommendation for Potential Study

VII. Miscellaneous
A. Inclusion of TRM Codes
B. Other

VIII. CONCLUSION

WHEREFORE, the People respectfully request that the Illinois Commerce Commission enter an order consistent with the recommendations made in this Initial Brief.

Respectfully submitted,

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